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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,215	09/25/2003	Bruce R. Booth	AUS920030296US1	4076
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EXAMINER				
FEARER, MARK D				
ART UNIT		PAPER NUMBER		
2143				
NOTIFICATION DATE		DELIVERY MODE		
05/16/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeciipaw.com

Office Action Summary

Application No.

10/671,215

Applicant(s)

BOOTH ET AL.

Examiner

MARK D. FEARER

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 10-14 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-14 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

- claims 1-5, 10-14 and 19-23 are pending in the current application.

In view of the appeal brief filed on 19 February 2008, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claims 10-14 claim the non-statutory subject matter of a program. Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1754 (claim to a data structure per se held nonstatutory). Therefore, since the claimed programs are not tangibly embodied in a physical medium and encoded on a computer-readable medium then the Applicants has not complied with 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 are rejected under 35 U.S.C. 102(b) as being anticipated by Helgeson et al. (US 7072934 B2).

Consider claims 1, 10 and 19. Helgeson et al. discloses a method in a data processing system for providing a single automation tool adapter within said data processing system for use with multiple different automation tools, said method comprising the steps of: each one of said automation tools being an application that interfaces with a device to enact a sequence of automated changes (column 7 line 34 – column 8 line 11); said automation tool adapter including a queue listener; monitoring, by said queue listener, a plurality of clients by monitoring a request queue that is external to said automation tool adapter for messages (column 3 lines 18-45); determining, by said queue listener, whether said request queue includes an automation message (column 4 lines 29-51); said automation message including a request having parameters in an original format that are to be executed using one of said automation tools, said automation message including a message identifier that uniquely identifies said automation message and a source of said automation message (column 15 line 9 – column 16 line 64); responsive to said queue listener determining that said request queue includes said automation message, said queue listener creating a verb dispatcher within said automation tool adapter; passing, by said queue listener, said automation message to said verb dispatcher; creating, by said verb dispatcher, an automation processor of a type that is required by said automation message; translating, by said verb dispatcher, said parameters from said original format to a

second format that is required by said one of said automation tools to produce translated parameters (column 119 line 28 – column 120 line 22); providing, by said verb dispatcher, said message including said message identifier and said translated parameters to said automation processor (column 4 lines 6-28); constructing, by said automation processor, an automation tool command using said translated parameters; executing, by said one of said automation tools, said automation tool command, said automation tool command including said translated parameters (column 14 lines 35-54); in response to a completion of execution of said automation tool command, said one of said automation tools sending a reply to a reply server that is included in said automation tool adapter, said reply being in said second format and including said message identifier; translating, by said reply server, said reply into said original format to form a translated reply (column 113 lines 1-33); and sending, by said reply server, said translated reply to a reply queue that is external to said automation tool adapter (column 114 lines 11-25).

Consider claims 4, 13 and 22, as applied to claims 1, 10 and 19, respectively. Helgeson et al. discloses a method comprising the steps of: determining said second format required by said one of said automation tools utilizing a configuration file that includes a specification of a format for each one of said automation tools (column 59 line 37 – column 60 line 53 and column 61 lines 27-43).

Consider claims 5, 14 and 23, as applied to claims 1, 10 and 19, respectively. Helgeson et al. discloses a method comprising the steps of: said original format being an XML document format; and translating said parameters from said XML document

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format to a flat file containing a set of name/value pairs, wherein said flat file format is said second format (column 28 line 48 – column 29 line 55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-3, 11-12 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helgeson et al. (US 7072934 B2) in view of Belfiore et al. (US 6990513 B2).

Consider claims 2, 11 and 20, as applied to claims 1, 10 and 19, respectively. Helgeson et al. discloses a method for a business applications server management system platform comprising request queues. However, Helgeson et al. fails to disclose a plurality of request queues. Belfiore et al. discloses a distributed computing services platform comprising: providing a plurality of request queues; said automation tool adapter including a plurality of queue listeners, each one of said plurality of request queues associated with one of said plurality of queue listeners; and checking, by each one of said plurality of queue listeners, an associated one of said plurality of request queues for a message (Belfiore et al., column 20 lines 45-56).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a distributed computing services platform comprising: providing a plurality of request queues; said automation tool adapter including a plurality of queue listeners, each one of said plurality of request queues associated with one of said plurality of queue listeners; and checking, by each one of said plurality of queue listeners, an associated one of said plurality of request queues for a message as taught by Belfiore et al. with a method for a business applications server management system platform comprising request queues as taught by Helgeson et al. for the purpose of distributed applications computing.

Consider claims 3, 12 and 21, as applied to claims 2, 11 and 20, respectively. Helgeson et al., as modified by Belfiore et al., discloses a method comprising the steps of: each one of said plurality of request queues located in a different one of said plurality of clients (Helgeson et al., column 31 line 60 – column 32 line 12).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Any response to this Office Action should be faxed to (571) 273-8300 or mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window

Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Mark Fearer whose telephone number is (571) 270-1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer

M.D.F./mdf

May 5, 2008

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2154